

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

TRICIA A. CAMERA,
Plaintiff,

v.

EDMUND ALLCOCK, ESQ. and
MARCUS, ERRICO, EMMER &
BROOKS, P.C.
Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441(b) and 1446, the Defendants Edmund Allcock, Esq. and Marcus, Errico, Emmer & Brooks, P.C. (hereinafter “Defendants”) in the case of Tricia A. Camera v. Edmund Allcock, Esq. and Marcus, Errico, Emmer & Brooks, P.C., Case No. 1167CV1100, Westborough Division of the District Court, Worcester County, Massachusetts, hereby remove that case to the United States District Court for the District of Massachusetts.

GROUND FOR REMOVAL

1. On or about March 31, 2010 the Plaintiff, Tricia A. Camera (hereinafter “Plaintiff”) filed her Original Complaint against the Defendants, in which she alleges violations of the Federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692, as well as various state law claims. (A copy of Plaintiff’s Complaint is appended hereto as Exhibit “A”).¹ As such, a federal question is presented on the face of the Plaintiff’s Complaint.

2. This Court has original jurisdiction over the Plaintiff’s federal claim pursuant to 28 U.S.C. § 1331 and the entire case may be removed pursuant to 28 U.S.C. § 1441(b), which

¹ Pursuant to Rule 81.1(a) of the Local Rules of the District Court for the District of Massachusetts, the Defendants will file with the District Court certified or attested copies of the record proceedings in the state court and a certified or attested copy of all docket entries in the state court within thirty (30) days.

states that a civil action brought in a state court may be removed by the defendant to the federal district court if “the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties, or laws of the United States.”²

3. Pursuant to 15 U.S.C. § 1692k(d), “an action to enforce any liability created by this subchapter [the Federal Fair Debt Collection Practices Act] may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within one year from the date on which the violation occurs.” Therefore, the federal district courts have original jurisdiction over a claim arising under the Federal Fair Debt Collection Practices Act.

4. The federal district courts may further exercise supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367 as the claims arise out of a common nucleus of operative fact.

5. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

6. Removal is timely as the Plaintiff served both Defendants with the Complaint on April 1, 2011 and the Defendants have filed this Notice of Removal on April 20, 2011, within thirty (30) days of service of the Complaint. See, 28 U.S.C. § 1446(b).

7. The Defendants unanimously consent to the removal of this action.

8. Pursuant to 28 U.S.C. § 1446(d), the Defendants have given notice of the removal of this case to counsel for Plaintiff in accordance with the attached certificate of service and the Defendants have filed a copy of this notice with the Clerk of the Westborough Division of the District Court, the state court from which this case has been removed.

² This section has been interpreted as allowing removal of any case that could have originally been brought in federal court. Torres Velazquez v. Four Star Industries, Inc., 55 F.Supp.2d 91, 93 (D.P.R. 1999), citing Peltier v. Peltier, 548 F.2d 1083 (1st Cir. 1977).

9. In accordance with 28 U.S.C. § 1446(a), the Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

Respectfully submitted,

DEFENDANTS,

EDMUND ALLCOCK ESQ. and MARCUS,
ERRICO, EMMER & BROOKS, P.C.,

By their attorneys,

/s _____
Edmund A. Allcock, Esq., BBO#566718
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Dated: April 20, 2011

CERTIFICATE OF SERVICE

I, Edmund A. Allcock, hereby certify that the above document, and all documents associated with the removal of the Complaint, will be served by mail upon all counsel of record on or before April 21, 2011.

Stephen Gordon, Esq.
Stephen Gordon & Associates
500 Main Street, Suite 535
Worcester, MA 01608

/s _____
Edmund A. Allcock